

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35582 of 2020

Arising Out of PS. Case No.-303 Year-2017 Thana- JOGAPATTI District- West Champaran

1. Draupati Devi, aged about 38 years, Female, W/O Moti Chaudhary
2. Moti Chaudhary, aged about 43 years, S/O Late Tetar Chaudhary
3. Subhash Chaudhary, aged about 21 years, S/O Moti Chaudhary
All Resident Of Village - Harpurwa, P.S. Yogapatti, District - West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar, Advocate

For the State : Mr. Sanjay Kumar Tiwary, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 28-06-2021

The matter has been heard via video conferencing.

2. Heard Mr. Sanjeev Kumar, learned counsel for the petitioners and Mr. Sanjay Kumar Tiwary, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. The petitioners apprehend arrest in connection with Yogapatti PS Case No. 303 of 2017 dated 13.08.2017, instituted under Sections 143/341/323/324/354B/379/504/506 of the Indian Penal Code and 8 of the Protection of Children from Sexual Offences Act, 2012.

4. The allegation against the petitioners and others is of hurling abuse on the informant and her sister and petitioner no. 1 is



said to have caught the informant, pushed her down and assaulted her with legs and fists and another accused is said to have torn her clothes with bad intention. Further, two other co-accused are said to have assaulted the informant by legs and fists and that the accused persons also assaulted the mother and elder sister of the informant and tore their clothes and co-accused Vikash Kumar is alleged to have given *hasua* blow, resulting in abrasion below the eye of the informant and co-accused Vikash Chaudhary is said to have snatched away the golden nose-pin of the informant.

5. Learned counsel for the petitioners submitted that all the family members have been made accused and the parties are next door neighbours and there is land dispute. It was submitted that for the same incident, which is said to have taken on 20.07.2017, the petitioner no. 1 has instituted Jogapatti PS Case No. 274 of 2017 on 21.07.2017 whereas the present case has been lodged on 13.08.2017 for the same incident i.e., after a gap of about 24 days without there being any explanation. It was submitted that the police after investigation did not send the petitioners no. 2 and 3 for trial and charge sheet has been submitted only against petitioner no. 1 and co-accused Vikash Chaudhary. It was submitted that the Court below has taken cognizance against all the petitioners differing from the final form



submitted by the police. Learned counsel drew the attention of the Court to copy of the compromise petition filed jointly by the parties in which it has been stated that both the parties have compromised both the cases through *panchayati* and do not want to pursue the same any further. Learned counsel submitted that the petitioners have no criminal antecedent and the only allegation is of attempt with bad intention and tearing of the clothes. It was submitted that even otherwise it cannot be believed that in front of the mother, her sons and other male members would tear the clothes of any woman/girl with bad intention.

6. Learned APP submitted that as per the FIR, the petitioners had a role in such incident. However, it was not controverted that the allegation of tearing the clothes with bad intention is only against another co-accused and not the petitioners.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioners be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction of the learned 1st Additional District and Sessions Judge-cum-Special



judge (SC/ST/POCSO), Bettiah, West Champaran in Yogapatti PS Case No. 303 of 2017, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further (i) that one of the bailors shall be a close relative of the petitioners, (ii) that the petitioners and the bailors shall execute bond and give undertaking with regard to good behaviour of the petitioners, and (iii) that the petitioners shall cooperate with the Court and the police/prosecution. Any violation of the terms and conditions of the bonds or the undertaking or non-cooperation shall lead to cancellation of their bail bonds.

8. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioners, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioners.

9. The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J)

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